

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JAMES L. DEAN,)	4:09CV3144
Plaintiff,)	
v.)	
RICHARD T. SMITH, et al.,)	
Defendants.)	
LOIS P. WHITE, as Personal)	4:09CV3145
Representative of the Estate of)	
Joseph White, deceased,)	
Plaintiff,)	
v.)	
COUNTY OF GAGE, NEBRASKA, et al.,)	
Defendants.)	
KATHLEEN A. GONZALEZ,)	4:09CV3146
Plaintiff,)	
v.)	
RICHARD T. SMITH, et al.,)	
Defendants.)	
THOMAS W. WINSLOW,)	4:09CV3147
Plaintiff,)	
v.)	
RICHARD T. SMITH, et al.,)	
Defendants.)	
ADA JOANN TAYLOR,)	4:09CV3148
Plaintiff,)	
v.)	
RICHARD T. SMITH, et al.,)	
Defendants.)	
DEBRA SHELDEN,)	4:11CV3099
Plaintiff,)	
v.)	
COUNTY OF GAGE, NEBRASKA, et al.,)	
Defendants.)	

MEMORANDUM AND ORDER

After due consideration of the pending motions,

IT IS ORDERED that:

1. The Motion to Strike (filing no. [224](#)) is denied. However, the defendants shall promptly make their two experts available for depositions by counsel for the plaintiffs. Due to the relatively late disclosures, and if requested by plaintiffs' counsel, the defendants shall present these experts for deposition in Lincoln, Nebraska, without the requirement that plaintiffs' counsel pay the travel costs. Any such deposition shall be concluded no later than December 6, 2013.
2. The Non-Party Motion to Quash by the Nebraska Attorney General, the Nebraska Governor and the Nebraska Secretary of State acting as Members of the Nebraska Board of Pardons (filing no. [231](#)) is granted. The related Motion for Leave to Submit a Supplemental Brief by such non-parties (filing no. [239](#)) is denied as moot.
3. The Motion to Continue and Request for Status Conference (filing no. [236](#)) and Amended Motion to Continue and Request for Status Conference (filing no. [242](#)) submitted by the plaintiffs are denied. However, defendants are advised that it is highly unlikely that I will allow them to argue or suggest at trial that the plaintiffs (or anyone of them) were guilty of the rape and murder of Helen Wilson. I arrive at this tentative conclusion, for among other reasons, because (a) the issue of plaintiffs' guilt is beyond the issues set by me for trial (filing no. [155](#) at CM/ECF p. 2 ¶ 3); (b) in a civil suit like this one, a federal court has no power to determine the plaintiffs' guilt; and (c) any attempt to determine the guilt of the plaintiffs in this civil case would cause unnecessary and undue jury confusion particularly given the pardon of the plaintiffs and the DNA evidence. Any party who intends to file a motion in limine on the issue of plaintiffs' guilt or innocence shall do so no later than November 25, 2013.
4. Plaintiffs are granted leave to complete the deposition of Chief Deputy Klaus on or before December 6, 2013.

November 4, 2013.

BY THE COURT:

s/ Richard G. Kopf

Senior United States District Judge